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In re Application of	:	OFFICE OF PETITIONS
Boucher	:	DECISION ON APPLICATION
Application No. 09/628,694	:	FOR PATENT TERM ADJUSTMENT
Filed: July 28, 2000	:	
Atty. Dkt. No.: 06502.0230	:	

This is a decision on the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed December 8, 2004. This matter is being properly treated under 37 CFR 1.705(b) as an application patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicant requests that the Determination of Patent Term Adjustment be corrected from 501 days, as indicated on the Determination of Patent Term Adjustment mailed November 19, 2004, to an adjustment of 562 days.

A review of the application history reveals that as of the time of allowance, an adjustment of 600 days can be attributed to the Office. In accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), an adjustment of 560 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. A further adjustment of 40 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) for failure to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken.

The adjustment of 600 days is properly reduced 37 days in accordance with 37 CFR 1.704(c)(8) for submission of a supplemental reply or other paper (to wit, IDS filed July 24, 2003), other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed.

Applicant argues that the adjustment was improperly reduced an additional 62 days in connection with applicant's response to the

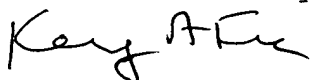
final Office action mailed September 10, 2003. Applicant's argue that a response to the final Office action was timely submitted December 9, 2003 and have submitted as proof of receipt of said response a copy of a postcard date-stamped by the USPTO. In view thereof, the reduction of 62 days in connection with applicant's reply to the final Office action was in error.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 563 days, as argued by applicant.

The required Patent Term Adjustment application fee of \$200.00 has been charged to Deposit Number 06-0916, as authorized in the instant application for Patent Term Adjustment.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.



Kery Fries
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for Patent Examination Policy

